

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:)	Group Art Unit: 3751
)	
BALL)	Examiner: Robert M. Fetsuga
)	
Serial No.: 10/732,726)	Confirmation No.: 2017
)	
Filed: December 10, 2003)	<u>DECLARATION OF BILL CARLSON</u>
)	<u>PURSUANT TO 37 C.F.R. §1.131</u>
Atty. File No.: 5564-152)	
)	
For: <i>"Method and Apparatus for</i>)	
<i>Assembling and Sealing Bathtub</i>)	
<i>Overflow and Waste Water Ports"</i>)	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Bill Carlson declare as follows:

1. I am currently employed as a designer and drafter by WCM Industries, Inc., which has an interest in the above application. WCM Industries, Inc. is comprised of Woodford Manufacturing ("Woodford") that manufactures and sells yard hydrants, wall hydrants and wall faucets and WATCO Manufacturing ("Watco") that manufactures and sells bath drains and bathtub products.

2. This Declaration is being submitted in connection with prosecution activities for the instant application. More specifically, this Declaration is submitted pursuant to 37 CFR § 1.131 in response to an Office Action dated December 9, 2008 in which U.S. Patent No. 6,192,531 to Fritz et al. ("Fritz") having a filing date, and effective prior art date, of December 1, 1999, was cited under 35 USC § 103(a) as rendering Claims 11, 12, 14 & 21-23 obvious in combination with Swiss Patent No. CH 346187 to Gebert ("Gebert"). In that Office Action, the

Examiner also combined Fritz and Gebert with U.S. Patent No. 5,745,931 to Ball ("Ball '931") and U.S. Patent No. 5,890,241 to Ball ("Ball '241") to find Claims 16-20 unpatentable.

3. This Declaration is submitted pursuant to 37 CFR § 1.131 also in response to the Office Action dated December 9, 2008 in which U.S. Patent No. 6,618,875 to Oropallo et al. ("Oropallo") having a filing date, and effective prior art date, of March 28, 2002, was cited pursuant to 35 USC § 103(a) as rendering Claims 11, 12, 14 & 21-23 obvious in combination with Gebert and Fritz.

4. Upon information and belief, in early November 1999, Mr. William T. Ball discussed the claimed invention with me, which was originally called the Schedule 40 Overflow Elbow that later was known as the "Innovator".

5. Upon information and belief, Mr. Ball asked me to model portions of the invention, for example, a threaded elbow, a wheel or flange nut and a cover plate.

6. Upon information and belief, the first concept drawings were completed by me on December 7, 1999. Exhibit A is a copy of engineering drawings I provided to Mr. Ball where my initials "BC" may be found near the date shown on the drawing.

7. Upon information and belief, it usually takes me about three to four weeks to perform modeling and drafting activities associated with a conceptual design. Therefore, Mr. Ball must have disclosed the invention to me at least in November of 1999.

8. Upon information and belief, I recall these events because WCM Industries was in the process of taking steps to upgrade the Computer Aided Design System, which occurred in 2000.

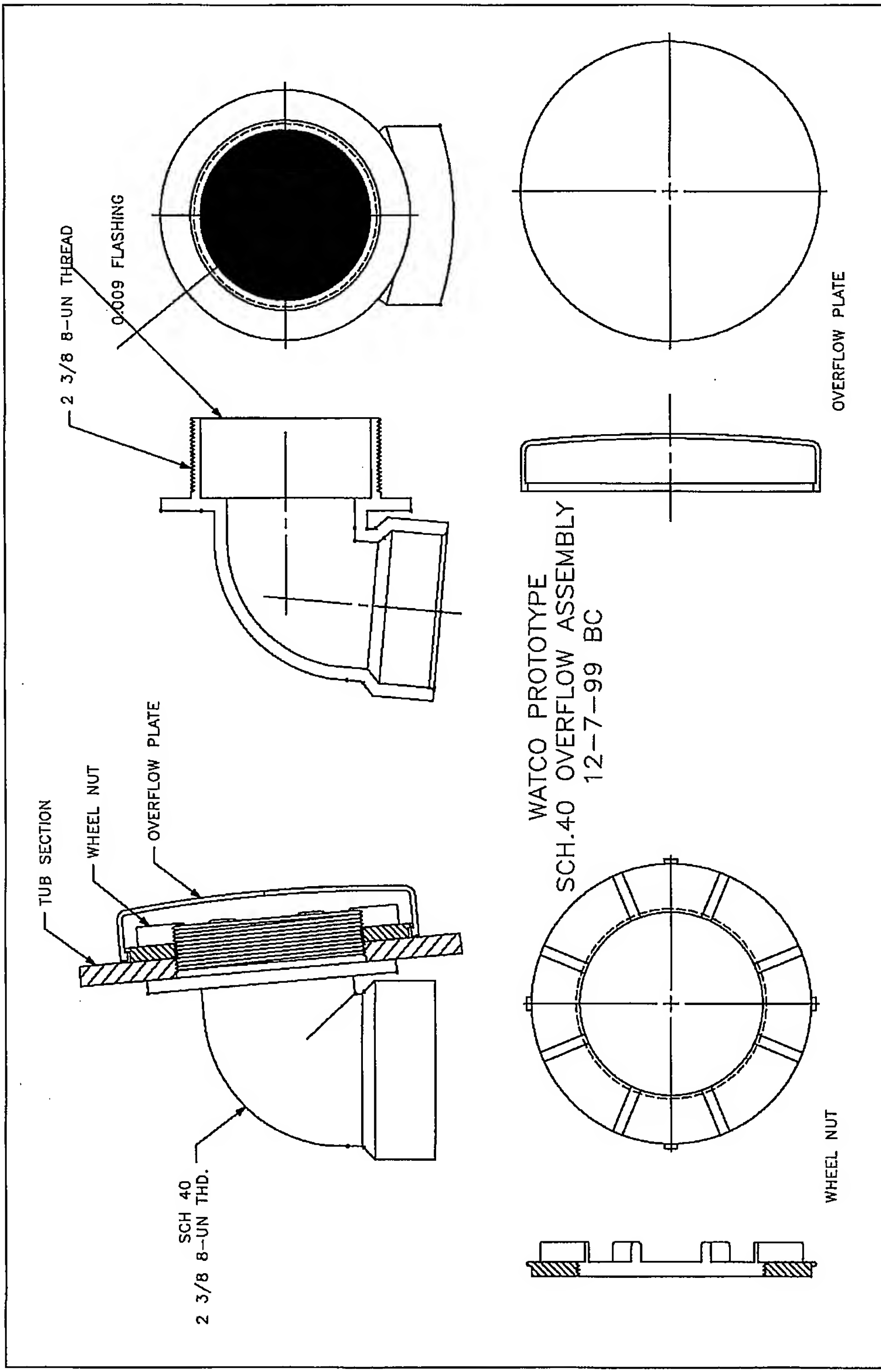
9. Upon information and belief, embodiments of the present invention were refined

and alternate embodiments were conceived after the original conception date listed above. Exhibit B is provided to show one alternative embodiment of the present invention that was invented at least about February of 2000.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like, so made, are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the subject application or any patent issuing thereon.

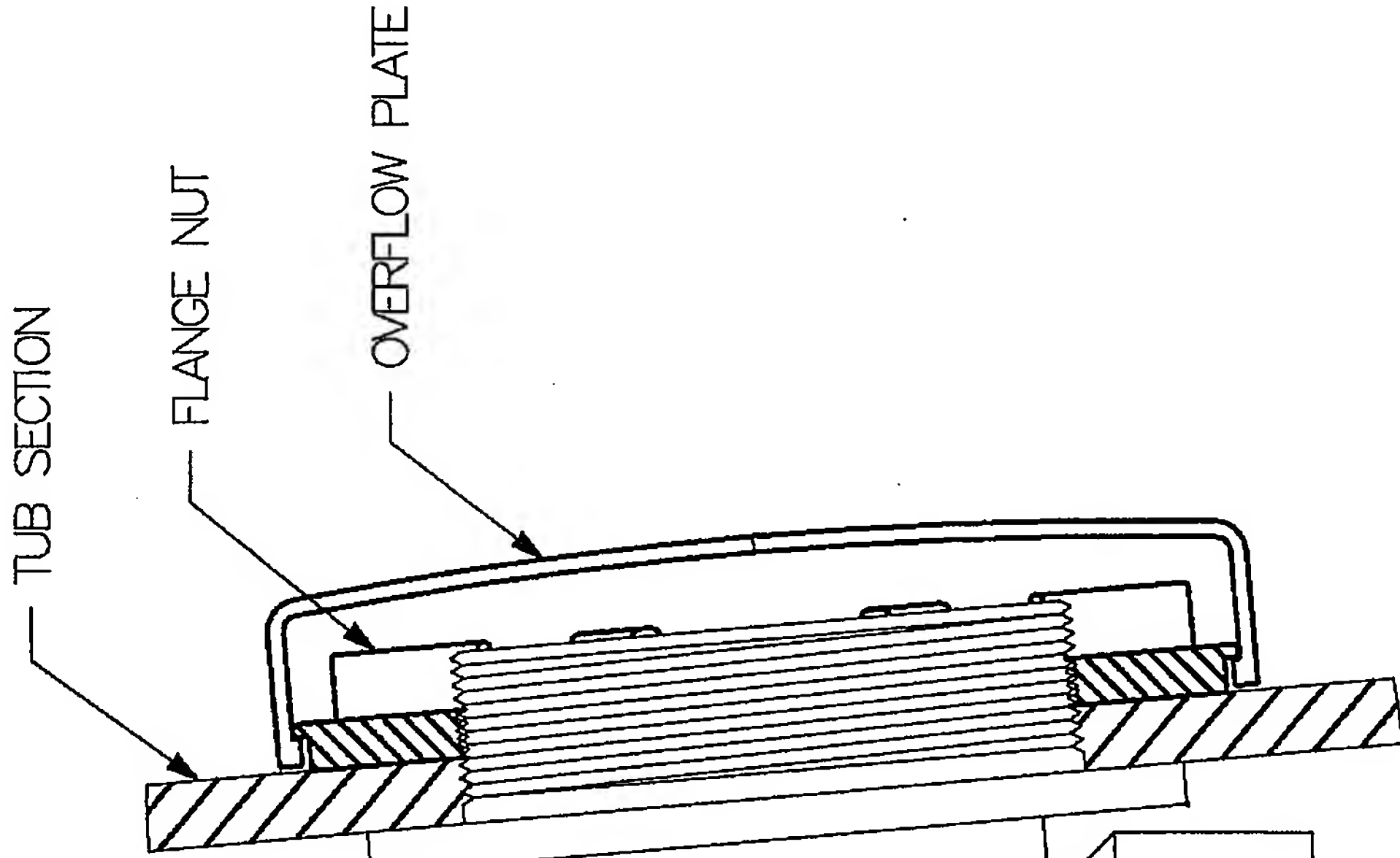
By: William L. Carlson Date: 6-9-09
Bill Carlson

Exhibit A



NAME		WHEEL AND OVERFLOW ASSY.		SCALE		1:1		WATCO MFG. CO.		PART NO.		WO_0001	
FOR		SCH. 40 OVERFLOW (PROTOTYPE)		TOLERANCE UNLESS SPECIFIED		DRAWN		REVISION		BY		DATE	
MAT'L		X		DECIMALS		± .010		A		BC		12-7-99	
				TWO PLACE		± .003		B					
				THREE PLACE		± 1/64		C					
				FRACTIONS		± 1/2		D					
				ANGLES									
				SURFACE TEXTURE		63							

WCM INDUSTRIES, INC.
 COLORADO SPRINGS, COLORADO



2	XXXXX	X
1	XXXXX	X
ITEM	PART NO.	DESCRIPTION

NAME	WHEEL NUT		SCALE	1:1	WATCO MFG. CO.	PART NO.	WO_0003		
FOR	SCH. 40 OVERFLOW (PROTOTYPE)		DRAWN		REVISION	BY	CH	EC	DATE
MAT'L	X		A			BC		XXX	12-7-99
			B						
			C						
			D						

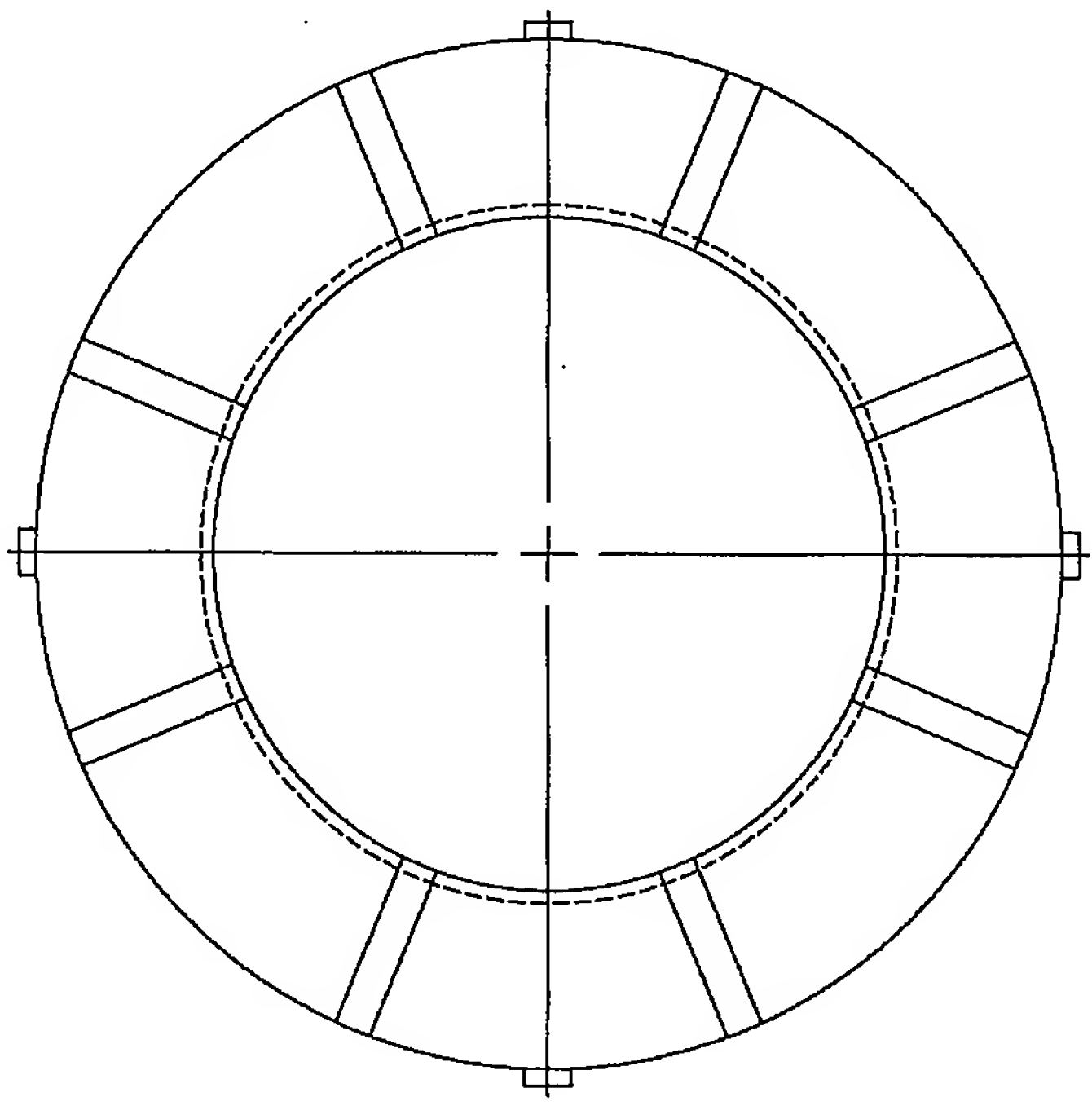
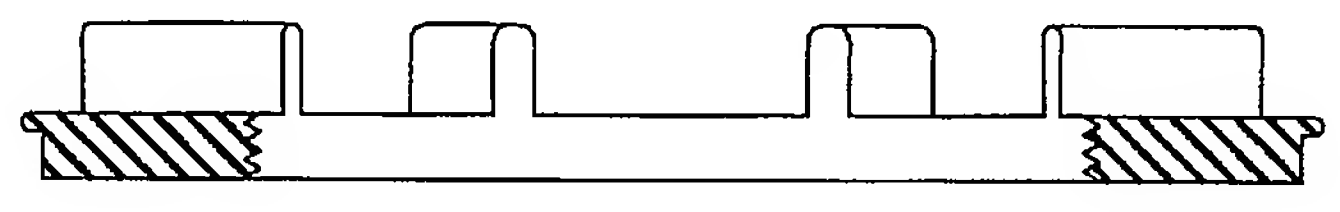
TOLERANCE
UNLESS SPECIFIED

DECIMALS
TWO PLACE ± .010
THREE PLACE ± .003

FRACTIONS
 ± 1/64
ANGLES ± 1/2°

SURFACE TEXTURE 63

WCM INDUSTRIES, INC.
COLORADO SPRINGS, COLORADO



OVERFLOW PLATE

FOR SCH. 40 OVERFLOW (PROTOTYPE)

MAT'L X

WCM INDUSTRIES, INC.
COLORADO SPRINGS, COLORADO

UNLESS SPECIFIED

DECIMALS
TWO PLACE $\pm .010$
THREE PLACE $\pm .003$
FRACTIONS
ANGLES $\pm 1/64$
 $\pm 1/2$
SURFACE TEXTURE 63 $\sqrt{\hspace{1cm}}$

1:1



NO.

WU_UUU4

REVISION	BY	CH	EC	DATE
DRAWN	BC		XXX	12-7-99
A				
B				
C				
D				

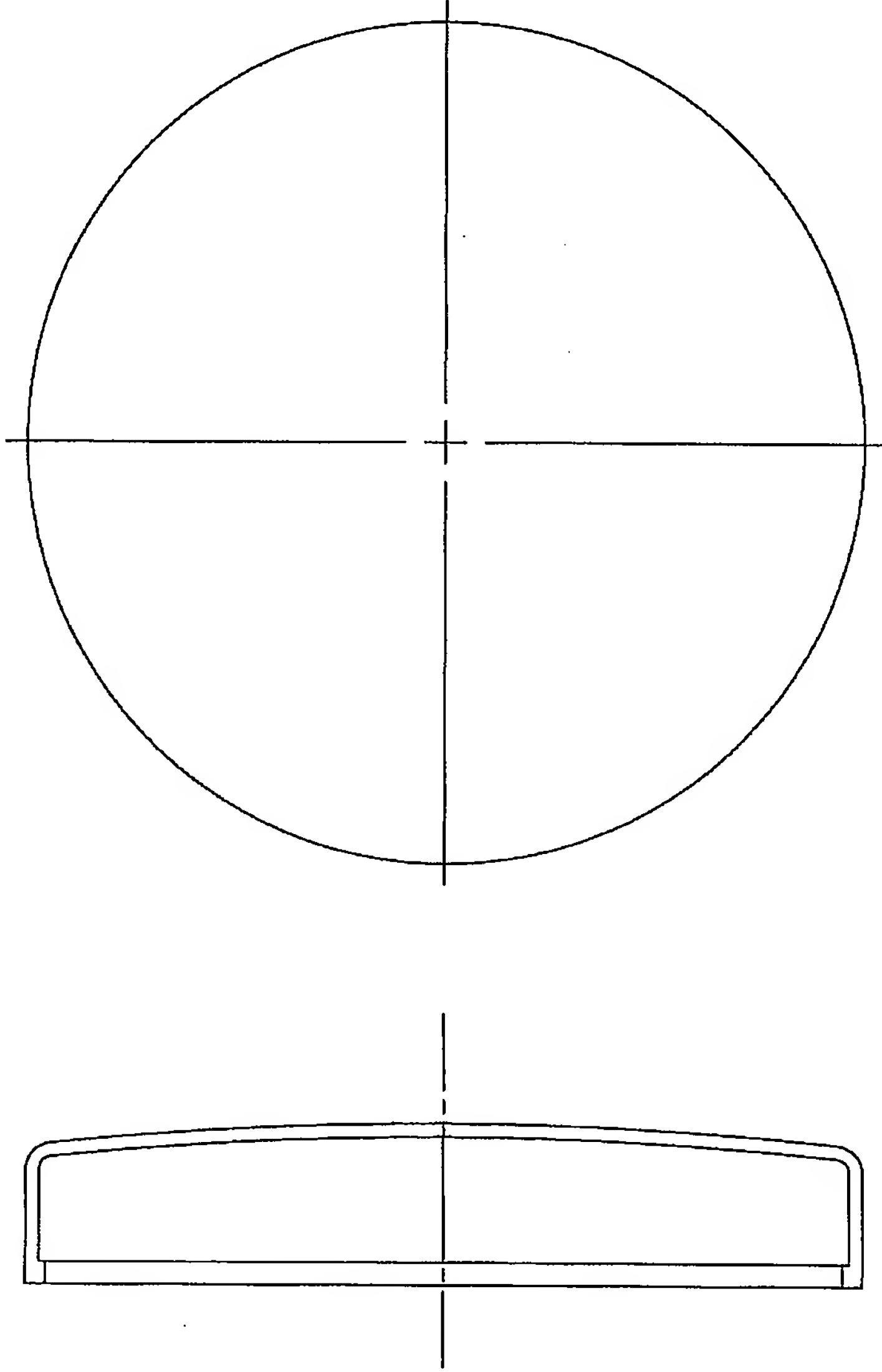
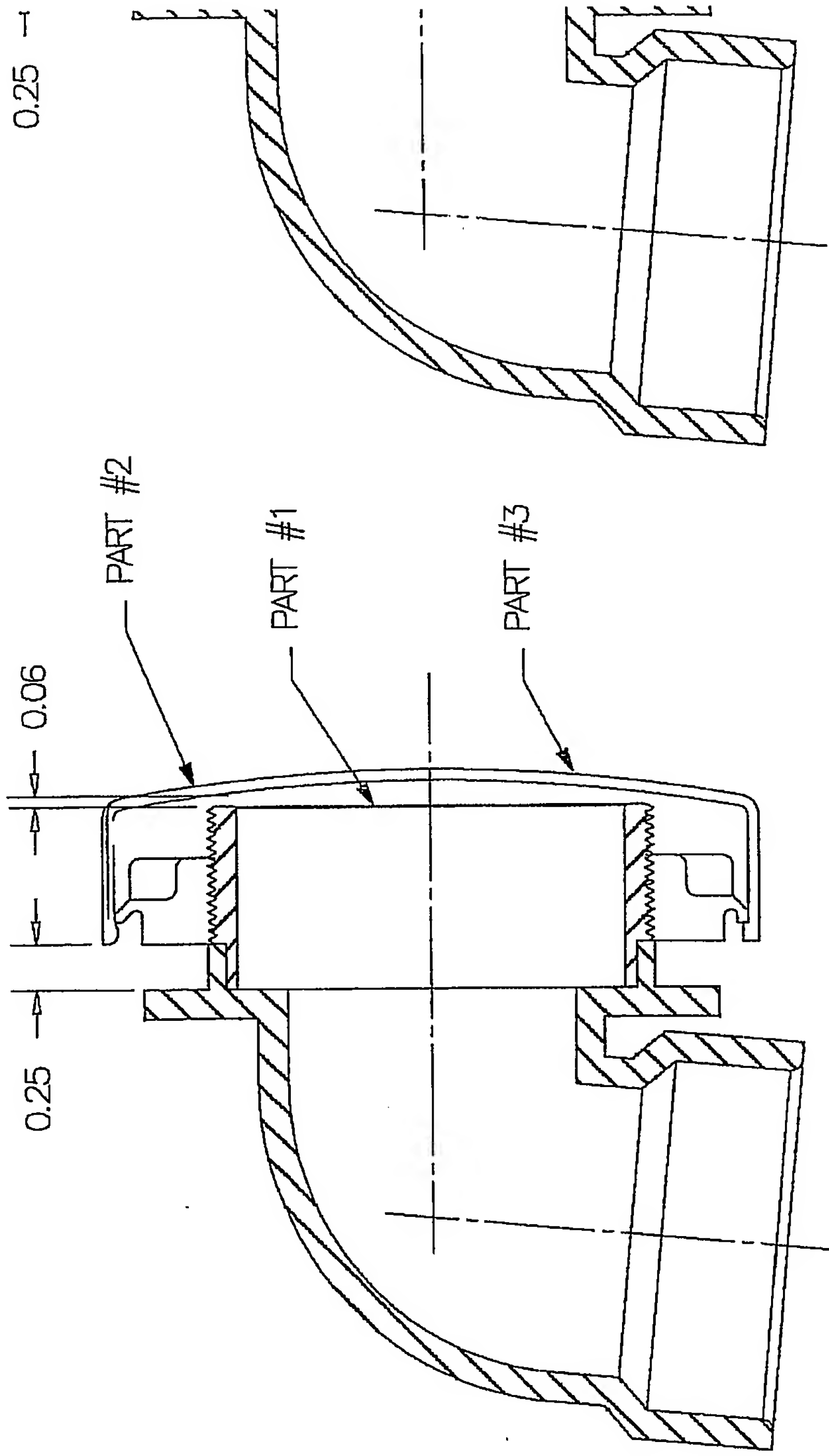
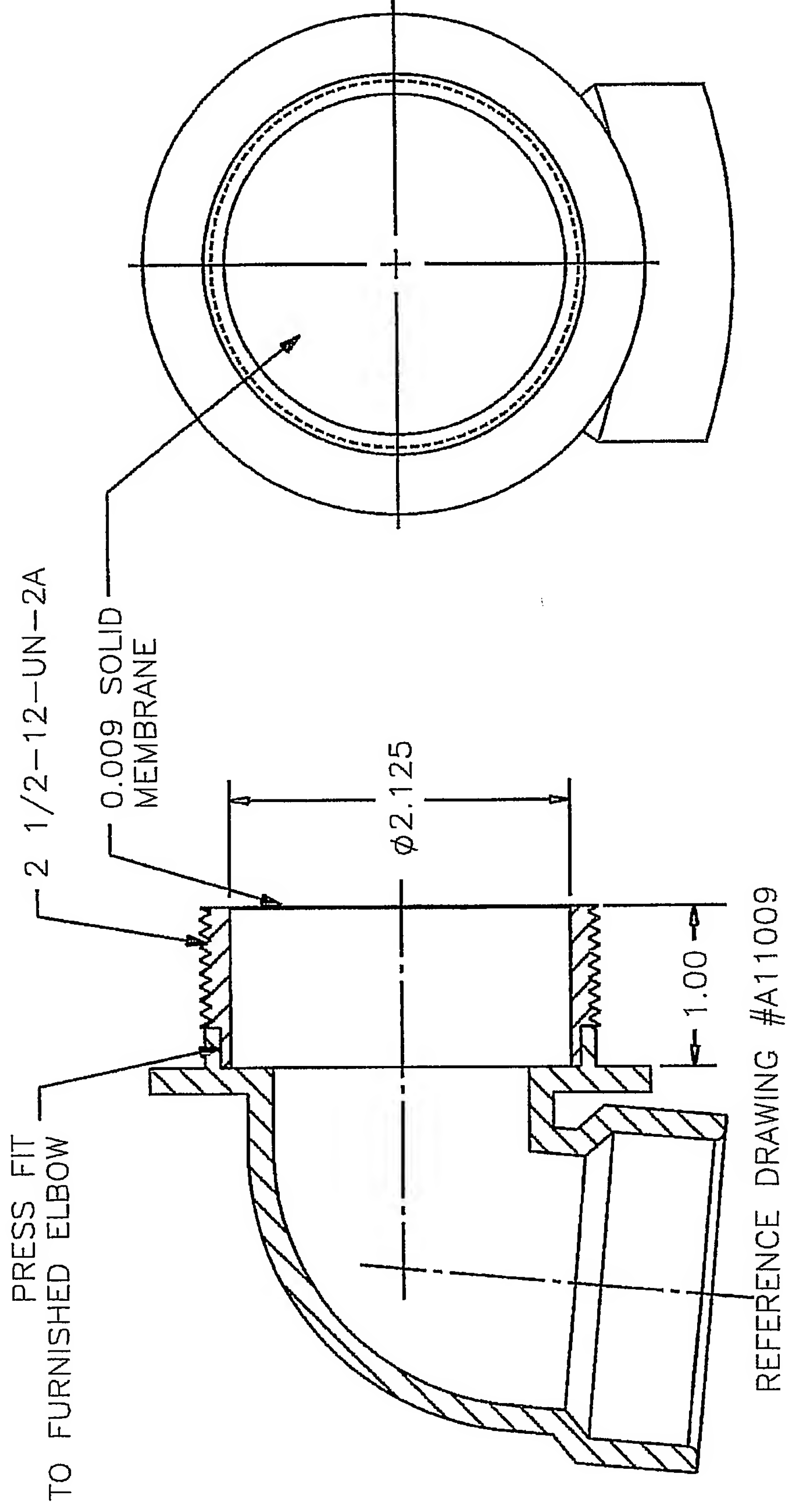


Exhibit B



WATCO
OVERFLOW ELBOW PROTOTYPE
2/9/2000 bc

OVERFLOW
2/9/



WOODFORD
PART #1
2/14/00

